

## FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation, or amendment to the regulation, is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

### Specific Facts Showing the Need for Immediate Action

Mediterranean fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including citrus, pome and stone fruit, and berries) and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Mediterranean fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

As a result of trapping adult female flies on September 27, 2005, the Department made an emergency amendment, effective October 7, 2005, to Section 3406(b) which added approximately 72 square miles surrounding the Rancho Cucamonga area of San Bernardino County to the regulation. Subsequently, additional adult female flies were taken from traps resulting in another two emergency amendments to the regulation; 1) effective on October 17, 2005, expanded the regulated area surrounding Rancho Cucamonga by 13 square miles; 2) effective October 25, 2005, expanded the area by 17 square miles; 3) effective November 23, 2005, expanded the area by 41 square miles; and, 4) effective December 28, 2005, expanded the area by 61 square miles and included a small portion of Los Angeles County. The original and subsequent detections of Mediterranean fruit fly in these areas resulted in a total regulated area in this region of State of approximately 204 square miles.

Treatments against the incipient infestation of Mediterranean fruit fly in this area were conducted for three lifecycles. Intensive trapping was conducted for an additional lifecycle

without any additional finds of the fly. Therefore, Mediterranean fruit fly will be declared eradicated from the counties of Los Angeles and San Bernardino on September 1, 2006.

This amendment of Section 3406(b) will remove the regulated areas of Los Angeles and San Bernardino counties from the area under quarantine for Mediterranean fruit fly. Because the fly will be officially recognized as eradicated from this area on September 1, 2006; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It is necessary to amend this regulation on an emergency basis to remove the quarantine on these areas of the counties and remove restrictions on the movement of hosts and possible carriers that are now unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the areas. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they will have to destroy the host fruits and vegetables. Therefore, it is necessary to have this emergency regulation effective no sooner than September 1, 2006.

#### Authority and Reference Citations

Section 3406(b):

Authority: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

Reference: Sections 5301, 5302 and 5322, Food and Agricultural Code.

#### Informative Digest

Existing law provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to protect the agricultural industry of California from the spread of pests. The Secretary may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested by or which might act as a carrier of any pest, from passing over any quarantine boundary which is established.

#### Section 3406. Mediterranean Fruit Fly Interior Quarantine.

Existing regulations established a portion of Los Angeles and San Bernardino counties as the one of the areas under quarantine area for Mediterranean fruit fly. This amendment will reduce the quarantine area for Mediterranean fruit fly by approximately 204 square miles. The effect of the amendment is to remove authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from Los Angeles and San Bernardino counties, because it is no longer necessary to protect California's agricultural industry since the fly has been eradicated from that area. The quarantine area for Mediterranean fruit fly surrounding the San Jose area of Santa Clara County, consisting of approximately 77 square miles, will remain under regulation because eradication has not been declared for this area.

#### Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment will remove portions of Los Angeles and San Bernardino counties from the area under quarantine; therefore, enforcement will no longer be necessary. There are no mandated costs associated with the removal of the this area from the regulation.

#### Cost Estimate

The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.